



**February 18, 2014**  
**CITY COUNCIL STUDY SESSION**  
**City Council Chambers, Municipal Building**  
**400 East Military, Fremont Nebraska**  
**5:30 PM**  
**AGENDA**

1. Meeting called to order
2. Roll call
3. Local Option Economic Development [Plan](#)
4. Adjournment

Agenda posted at the Municipal Building on February 14, 2014 and online at [www.fremontne.gov](http://www.fremontne.gov). Agenda distributed to the Mayor and City Council on February 14, 2014. The official current copy is available at City Hall, 400 East Military, City Clerk's Office. The City Council reserves the right to go into Executive Session at any time. A copy of the Open Meeting Law is posted in the City Council Chambers for review by the public. The City of Fremont reserves the right to adjust the order of items on this agenda.

# EXHIBIT "A"

## FREMONT, NEBRASKA LOCAL OPTION ECONOMIC DEVELOPMENT PLAN

2014-2029 (15 YR PLAN)

MAYOR: Scott Getzschman

COUNCIL MEMBERS: Jennifer Bixby  
Steve Navarrette  
Kevin Eairleywine  
Mark Stange  
Larry Johnson Michael  
Kuhns Todd Hoppe  
John Anderson

CITY ADMINISTRATOR: Dale Shotkoski

CITY ATTORNEY: Paul Payne



## LOCAL OPTION ECONOMIC DEVELOPMENT PLAN

**June 1, 2014-June 1, 2029**

### **OVERVIEW**

Nebraska's voters enacted a constitutional amendment in November 1990 granting cities and villages the power to use local sources of revenue for economic or industrial projects and programs. In 1991, the Unicameral implemented this amendment with the passage of Legislative Bill 840, the Local Option Municipal Economic Development Act.

The Local Option Municipal Economic Development Act is based on the premise that communities should use their tax dollars in ways that best meet local needs. While ongoing planning processes in many towns have identified development, job creation and increased economic opportunity as their highest priority for the future, a variety of constitutional and legislative prohibitions kept them from investing local public funds in development programs. The removal of these limitations gives municipality's greater latitude in determining and acting upon local needs.

As communities have witnessed population declines and the loss of younger people, they have thought about their futures and the types of actions and investments needed to reverse these past trends. At the same time, smaller towns and cities are beginning to realize a period of significant opportunity. In a period of uncertainty, complexity and growing concern about the problems and quality of urban life, including cost and relative safety, the advantages offered by the smaller communities have become uniquely attractive. Concurrently, the revolution in information and communication technology as well as goods distribution has reduced the isolation of small towns. As a result, it is increasingly possible to operate a significant business in growth areas outside of major urban areas.

### **ECONOMIC DEVELOPMENT STRATEGY**

The City of Fremont's economic development strategy involves building on our strengths to promote the expansion of existing industries and the accompanying creation and retention of jobs and to recruit new industries and new jobs to the community. The principal strategy is directed at maintaining a good quality of life, building a strong workforce, developing community resources, attracting new capital investment, broadening the community's tax base and ensuring economic stability and viability for the City of Fremont.

Economic diversification will continue to be a critical priority for the City of Fremont.

Diversification will be strengthened by the recruitment of new business from outside and development of new or expanded businesses from inside the city. An economic development program can establish the city as a nurturing environment for small and large businesses alike and provide economic opportunity. This atmosphere, in turn, will encourage people with skills and ideas to move or return to Fremont to live and do business.

In addition to recruitment, Fremont can create job opportunities by helping existing businesses in the city to expand their markets and compete more successfully. The successful marketing of Fremont as a center for opportunity is important to Fremont's effort to expand its labor force and attract new residents.

The City of Fremont recognizes that the attraction of new business and industry to a community, or the expansion of existing business or industry, takes place in a very competitive market place. In order to keep Fremont as competitive as possible in that market place, the community will strive to use financial and human resources available in a partnership with federal, state, municipal and private sources.

### **STATEMENT OF PURPOSE, GENERAL INTENT AND GOALS**

It is the intent of the City of Fremont to continue to have an Economic Development Program, the purpose and goals which will be:

- To create new jobs;
- To expand the labor market;
- To retain existing jobs;
- To attract new capital investment;
- To broaden the tax base; and
- To provide economic diversification to ensure economic stability and vitality for the City of Fremont and surrounding areas.

The success of the program will be measured by number businesses/agencies that have successfully accessed the program, number of jobs created and retained for the length of the program, the total dollars of capital investment in the community, and finally the growth in total valuation of the City. Each project will be based on its own merits, but priority will be given to jobs created and/or retained at or above the average wages and benefits for the community. The plan will be consistent with other comprehensive development and redevelopment plans for the City.

### **ELIGIBLE ACTIVITIES**

Eligible activities under the Economic Development Program may include, but shall not be limited to the following.

1. Direct loans or grants to qualifying businesses for fixed assets or working capital or both;
2. Loan guarantees for qualifying business;

3. Grants for public works improvements which are essential to the location or expansion of, or the provision of new services by, a qualifying business;
4. Grants or loans for job training;
5. The purchase of real estate, options for such purchases, and the renewal or extension of such options;
6. Relocation incentives for new residents;
7. The issuance of bonds as provided for in the Local Option Municipal Economic Development Act;
8. Payments for salaries and support of city staff to implement the economic development program or the contracting of such to an outside entity.
9. May also include grants, loans, or funds for rural infrastructure development as defined in Neb. Rev. Stat. §66-2102.
10. Tourism related activities.
11. Skilled workforce recruitment initiatives.
12. The authority granted under §18-2710.01 R.R.S. Neb., involving the making of grants or loans for the construction rehabilitation for sale or lease of housing for persons of low or moderate income.
13. The eligible activities described above are considered priority activities for the use of funds generated under the Local Option Municipal Economic Development Act. The City of Fremont recognizes that the attraction of new businesses to a community or the expansion of existing businesses takes place in a very competitive market place. In order to keep Fremont as competitive as possible in that market place, and in the creation of new jobs in the area, the City retains the right to include as eligible activities those additional activities allowable by law under the Local Option Municipal Economic Development Act.
14. The Local Option Municipal Economic Development Act has been changed in several Legislative sessions since it was signed into law on June 3, 1991. It is reasonable to assume the law will change during the course of Fremont's Economic Development Program. In order to stay current with Nebraska Statutes, the City of Fremont retains the right to amend this Economic Development Program when such amendment pertains to changes made to the Local Option Municipal Economic Development Act or to other statutes that affect Fremont's Program. Therefore this program is written with the intent that future changes to the Act which are beneficial to the City and citizens of Fremont are expressly included in this program.

## **TYPES OF BUSINESSES THAT WILL BE ELIGIBLE**

A qualifying business shall mean any corporation, partnership, limited liability company, or sole proprietorship which derives its principal source of income from any of the following:

1. The manufacture of articles of commerce.
2. The conduct of research and development.
3. The processing, storage, transport or sale of goods or commodities which are sold or traded in interstate commerce.
4. The sale of services in interstate commerce.
5. Headquarter facilities relating to eligible activities as listed in this section;
6. Telecommunications activities, including services providing advanced telecommunications capability;
7. Tourism related activities, or the production of films, including feature, independent, and documentary films, commercials, and television programs.
8. A business that derives its principal source of income from the rehabilitation of housing.
9. A business that derives its principal source of income from retail trade, except that no more than forty percent of the total revenue generated pursuant to the Local Option Municipal Economic Development Act for an economic development program in any twelve-month period and no more than twenty percent of the total revenue generated pursuant to the act for an economic development program in any five-year period, commencing from the date of municipal approval of an economic development program, shall be used by the city for or devoted to the use of retail trade businesses. For purposes of this subdivision, retail trade means a business which is principally engaged in the sale of goods or commodities to ultimate consumers for their own use or consumption and not for resale. In order for retail business to be considered for LB840 money, the project must give significant increase to taxes received by City; and
10. Any other business deemed as a qualifying business in the Local Option Municipal Economic Development Act or through future action of the Nebraska legislature.

If a business which would otherwise be a qualifying business employs people and carries on activities in more than one city in Nebraska or will do so at any time during the first year following its application for participation in an economic development program, it shall be a qualifying business only if, in each such city, it maintains employment for the first two years following the date on which such business begins operations in the city as a participant in its economic development program at a level not less than its average employment in such city over the twelve-month period preceding participation.

A qualifying business need not be located within the territorial boundaries of the city from which it is or will be receiving financial assistance.

## **BUDGET**

Following the adoption of an ordinance establishing an economic development program, the amount to

be expended on the program for the ensuing biennial period shall be fixed at the time of making the biennial budget required by law and shall be included in the budget

### **Proposed Source of Funding**

The source of public funds for Fremont's Economic Development Program will be one-third (1/3<sup>rd</sup>) of the proceeds from an existing ½ cent Fremont city sales and use tax adopted in 1999, renewed in 2004, and reviewed again in 2014, with a maximum amount to be appropriated in each year for the Economic Development Plan not to exceed those allowed by state statute. These public funds will be placed into the Economic Development Restricted Trust Fund.

Any proceeds from the issuance of bonds to provide funds to carry out this Economic Development Program and any proceeds from land or building sales associated with this Economic Development Program shall be deposited in this fund. The City of Fremont shall not transfer or remove funds other than for the specific uses outlined in this program during the life of this program.

The restrictions on the appropriation of funds from local sources of revenue shall not apply to the re-appropriation of funds, which were appropriated but not expended during the previous fiscal years.

### **Time Period for Collection of Funds**

The Program tax collection will be in effect from June 1, 2014, to December 31, 2024, an approximate ten (10) year period. The City of Fremont's Economic Development Program will be in effect for a fifteen (15) year period. Miscellaneous revenues and funds, including but not limited to repayment of loans, return on investments, fees for activities such as loan guarantees, and sales proceeds from properties, may continue to be used for activities contained within this Economic Development Program during the life of this program.

Estimated collections for the program from local sources will be one third (1/3) of the one half (.50%) Local Option Sales Tax (LOST) per year.

### **Preliminary Biennial Budget**

Annual Estimated Funds Collected	1/3 of the ½% Local Option Sales Tax Collected
Expenditures	
Eligible activities allowed by Plan	1/3 of the ½% Local Option Sales Tax Collected

### **Bond Authority**

Fremont may have a business opportunity or other economic development project that requires initial funds that exceed the single year proceeds of the local option sales tax. In order to take

advantage of such an opportunity, Fremont should have the ability to issue debt per state statute. Future sales tax receipts then retire the debt. The City Council may authorize the issuance of bonds to carry out the economic development program following a public hearing.

## **PROCESS**

The City of Fremont will be responsible for administration of the Plan. References to Plan Administration in this document will refer to the City of Fremont, unless the city council subsequently appoints an outside third party administrator.

There shall be created for the review process an economic development team consisting of two (2) City of Fremont elected or appointed officials (selected annually by the mayor and approved by City Council), two (2) Greater Fremont Development Council representatives (recommended by the GFDC and selected annually by the Mayor), and three at-large members, appointed annually by the mayor and subject to approval of Council. For the first year, only, one (1) member from the City of Fremont elected or appointed officials, one (1) Greater Fremont Development Council representative, and (1) at-large member shall be selected by the mayor and approved by City Council to be appointed for a one (1) year term, and the remaining members of the economic development team will be selected for a two (2) year term. One (1) member from the City of Fremont, one (1) representative from Greater Fremont Development Council, and two (2) at large members shall be selected annually by the Mayor and approved by Council, so that terms are staggered. Any member with conflict of interest shall not review any application wherein there appears to be any direct conflict of interest.

### **Phase 1**

Phase 1 determines the potential of financing for proposed project or activity.

To be considered for direct financial assistance under this program, an applicant must provide at a minimum the following.

1. A detailed description of the proposed project.
2. A business plan, including employment and financial projections, current and past financial statements and financial records as needed to perform due diligence as well as financing requirements for the project, and total project costs.
3. A list of key management employees and their skills and experience related to the project.
4. A completed City of Fremont Local Option Municipal Economic Development Program Application for Financial Assistance.

Additional information, as necessary to determine the eligibility and economic viability of the proposed project(s), may be requested by the Program Administrator and/or by the City.

### **Phase 2**

Phase 2 is the review portion of the process.



Upon completion of the application and submittal of the application to the Program Administrator, the Program Administrator will review applications and requests for financial assistance in the order in which the Program Administrator receives them. The program/project will be submitted to the Economic Development Team for review and recommendations. The Economic Development Team will review each application and decide whether to recommend to City Council for approval based on project feasibility and the potential future economic benefit to the community of Fremont as determined by review of the applicant's business plan and other requested information. If the Economic Development Team does not recommend the application, the business can decide to revise the plan and resubmit to the Economic Development Team for a second review or elect to present the existing plan to the City Council without a favorable recommendation from the Economic Development Team.

Review by the Citizen Advisory Review Committee.

The Program Administrator will be responsible for verification of information in the applications from those eligible businesses, which receive a recommendation for financial assistance before recommendation is made to the City Council.

### **Phase 3**

After review the application will be submitted with recommendations to the City Council for its review and final decision.

The Council will consider the overall benefits to the community. Then the Council will strive to provide the Program Administrator a decision that fits within the time frame suitable to meet the business requirements of the applicants. Once approved, the Program Administrator will take the necessary actions to execute the agreements made.

### **ADMINISTRATION OF ECONOMIC DEVELOPMENT PROGRAM**

#### **1. Program Administrator:**

- Assists Applicants and conducts active recruiting for potential applicants.
- Will be responsible for the day-to-day activities of administering the program.
- Develops the application form and procedures to encourage participation from eligible activities.
- Responds to all inquiries in a timely manner.
- Reviews and analyzes confidential financial information to make an educated evaluation of the viability of the project to the economic development team and the City Council.
- Ensures applications are processed, reviewed and brought before the City Council in a timely manner.
- Provides someone to serve as an ex-officio, non-voting member of the Citizen Advisory Review Committee who will provide that committee with necessary

advice and information

- Tracks participating businesses' employment figures for two years if said business employ persons in other Nebraska communities.

- Provides a report to City Council and the general public on the activity of the program on a quarterly basis.

## 2. Citizen Advisory Review Committee:

- The Citizens Advisory Review Committee will meet regularly as required to review the program and any applications referred by the Council, and will report to the City Council in a timely manner on its findings and suggestions at a public hearing called for that purpose.

By State Statute, this committee is comprised as such:

- A group of citizens who are registered voters of the City, appointed by the Mayor and subject to approval of the City Council, who will review the functioning and progress of the economic development program and advise the City Council with regard to the program.

- Committee organization will consist of:

  - \*Not less than five nor more than ten members.

  - \*At least one individual with expertise or experience in the field of business, finance or accounting.

  - \*A City Official or Employee responsible for the administration of the economic development program who will serve as an Ex-Officio Member.

  - \*The ordinance shall designate one municipal official or employee (designated by title) to administer the economic development program and serve as an ex officio Committee member. The designated individual also will be responsible for providing the committee with necessary information and advice on the economic development program (Neb. Rev. Stat. §18-2715)

- No member of the committee shall be an elected or appointed city official, an employee of the City, a participant in a decision making position regarding expenditures of program funds, or an official or employee of any qualifying business receiving financial assistance under the economic development program or of any financial institution participating directly in the economic development program.

## 3. City Council:

- Will have final authority on expenditure of funds in support of the economic development program.

- Will select a Program Administrator and approve the membership of the Citizens Advisory Committee.

- Will have ultimate responsibility for the economic development program.

#### 4. Loan Program Administrator (if loan program exists)

If the economic development program involves the establishment of a loan fund, the governing body of the city shall designate an appropriate individual to assume primary responsibility for loan servicing and shall provide such other assistance or additional personnel as may be required. The individual may be an employee of the city, or the city may contract with an appropriate business or financial institution for loan servicing functions.

The governing body of the city shall be provided with

- a. An account of the status of each loan outstanding,
- b. Program income, and current investments of unexpended funds on a monthly basis.  
Program income shall mean payments of principal and interest on loans made from the loan fund and the interest earned on these funds.

Records kept on such accounts and reports made to the governing body of the city shall include, but not be limited to, the following information:

- a. The name of the borrower;
- b. The purpose of the loan;
- c. The date the loan was made;
- d. The amount of the loan;
- e. The terms of the loan, including the interest rate, the maturity date, and the frequency of payments; and
- f. The payments made to date and the current balance due.

The individual responsible for loan servicing shall monitor the status of each loan and, with the cooperation of the governing body of the city and the primary lender or lenders, take appropriate action when a loan becomes delinquent.

The governing body shall establish standards in writing for the determination of loan delinquency, when a loan shall be declared to be in default, and what action shall be taken to deal with the default to protect the interests of the qualifying business, third parties, and the city.

The governing body shall establish a process to provide for consultation, agreement, and joint action between the city and the primary lender or lenders in pursuing appropriate remedies following the default of a qualifying business in order to collect amounts owed under the loan.

#### **Process to Ensure Confidentiality of Business Information Received:**

In the process of gathering information about a qualifying business, the City or covered entity may receive information about the business, which is confidential and, if released, could cause harm to the business or give unfair advantage to its competitors. State law authorizes cities and other public entities to maintain the confidentiality of business records, which come into their possession.

To protect the business applying for funds and to encourage them to make full and frank disclosure of business information relevant to their application, the City of Fremont will take such steps as may be necessary to ensure the confidentiality of the information it receives,

pursuant to Neb. Rev. Stat. §18-2715 (4) and §84-712.05.

1. The adoption of an ordinance which makes such information confidential and punishes disclosure;
2. A restriction on the number of people with access to the files with the program administrator primarily responsible for their safe-keeping, and
3. A requirement that personnel involved in the program sign statements of confidentiality regarding all personal and private submittals by qualified businesses.
4. Sensitive financial records are to be kept confidential by the Plan Administrator and analyzed by the Plan Administrator or an agreed upon third party, not to be shared with the economic development team or the City Council without the explicit consent of the company and/or individuals.

### **PURCHASE OF REAL ESTATE OR OPTION TO PURCHASE**

If and when real estate is to be purchased or optioned by the City under the Program, it should meet the following general criteria:

1. The property shall be properly zoned without any excessive easements, covenants or other encumbrances.
2. The property should conform or be able to be re-zoned to comply with the City and/or County's Comprehensive Plan.
3. Selection of sites shall be based upon sound economic development location criteria or specifications for special projects.
4. Can be located either within or outside of the City limits.
5. All purchases and options for purchase shall be approved by the City Council.
6. The proceeds from the future sale of such land would be returned to the City's Economic Development Fund for reuse for activities eligible in the Program.

### **INVESTMENT OF ECONOMIC DEVELOPMENT FUNDS**

The City will establish a separate Economic Development Fund.

1. All funds derived from local fund sources of revenue for the Economic Development Program, any earnings from the investment of such funds, any loan payments, any proceeds from the sale by the City of assets purchased by the City under its Economic Development Program, or any other money received by the City by reason of the Economic Development Program, shall be deposited into the Economic Development Fund.
2. No money in the Economic Development Fund shall be deposited in the General Fund of the City except as provided by statute.
3. The City shall not transfer or remove funds from the Economic Development Fund other than

for purposes prescribed in the Act and this plan.

4. The money from the Economic Development Fund shall not be commingled with any other City funds.

#### APPROPRIATION OF ECONOMIC DEVELOPMENT FUNDS

(1). The City shall not appropriate from funds derived directly from local sources of revenue for all approved economic development programs, in each year during which such programs are in existence, an amount in excess of four-tenths of one percent of the taxable valuation of the city in the year in which the funds are collected.

(2). Notwithstanding the provisions of subsections (1) and (3) of this section, the City shall not appropriate from funds derived directly from local sources of revenue more than four million dollars for all approved economic development programs in any one year.

(3). Notwithstanding the provisions of subsections (1) and (2) of this section, the City shall not appropriate from funds derived directly from local sources of revenue an amount for an economic development program in excess of the total amount approved by the voters at the election or elections in which the economic development program was submitted or amended.

(4). The restrictions on the appropriation of funds from local sources of revenue as set out in subsections (1) through (3) of this section shall apply only to the appropriation of funds derived directly from local sources of revenue. Sales tax collections in excess of the amount which may be appropriated as a result of the restrictions set out in such subsections shall be deposited in the city's economic development fund and invested as provided for in Neb. Rev. Stat. §18-2718. Any funds in the city's economic development fund not otherwise restricted from appropriation by reason of the city's ordinance governing the economic development program or this section may be appropriated and spent for the purposes of the economic development program in any amount and at any time at the discretion of the governing body of the city subject only to Neb. Rev. Stat. §18-2716

(5). The restrictions on the appropriation of funds from local sources of revenue shall not apply to the reappropriation of funds which were appropriated but not expended during previous fiscal years.

(6). Any money in the Economic Development Fund not currently required or committed for the purposes of Economic Development shall be invested as provided in Neb. Rev. Stat. §77-2341.

(7). In the event that the Economic Development Program is terminated, any funds remaining will be transferred as provided by statute to the General fund of the City and will be used on an installment basis to reduce the property tax levy of the City as provided by the Act.

(8). If there is a conflict between this plan and State Statute, the State Statute will control.